

**C) Remarks:**

Claims 1 - 3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Varn in view of Chermak, and claims 4 and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Varn, as modified in the previous rejection, and further in view of Bishop. Reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

In making the rejection the Examiner points out what he believes to be comparable parts between the claimed invention and the prior art disclosed in Varn and Chermak and then concludes that "Therefore it would have been obvious to one skilled in the art to include the hinge portion suggested by Chermak in Varn's device as such would provide flexibility to move the hand relative to the forearm during rehabilitation." Applicant respectfully disagrees with the Examiner's conclusions.

First of all, such a combination defined by the Examiner is not what Applicant claims and it does not even suggest what Applicant claims. The Examiner's suggested combination would provide a resultant device which would provide flexibility to move a hand relative to the forearm during rehabilitation and this is something entirely different from what Applicant claims. In addition, such a combination is entirely unuseable for Applicant's claimed and intended purposes, which is to provide a surgical hand support which specifically positions the thumb "whereby the volar side of said thumb is suitably exposed and presented for surgery". The term "volar" is defined

in the specification on page 1 as the palm side of the thumb. This is a common term used by hand surgeons.

As the Examiner is aware, references can only be combined for what the combination fairly teaches one of ordinary skill in the art, the present art being that of a surgeon who is required to operate on the volar side of the thumb.

As is explained in the present specification, beginning at the bottom of page 1, it is the present practice for operating on the volar side of the thumb for an assistant to manually hold the thumb and hand in such a way to present or expose the volar side of the thumb directly to the operating surgeon and it is further explained that this procedure is unacceptable and difficult as the thumb must be manually held for a long period of time in a steady position without shaking for repairing nerves and/or arteries.

The surgical hand support of the present invention eliminates this by positioning a human thumb for performing surgical procedures on the volar side of the thumb without the required holding and presenting the hand by a surgical assistant. The surgical hand support of the present invention is so configured and dimensioned whereby the volar side of the thumb is suitably exposed and presented for surgery without the use of any assistant for holding and steadying the hand. In the language of a surgeon, or anyone familiar with anatomy, when the volar side of the thumb is suitably exposed and presented this means that the hand is firmly secured to the support and supported in a

position of volar flexion of the wrist and further that the thumb is firmly secured to the hand support of the present invention in a position of abduction up and out of the plane of the palm.

Accordingly, to more specifically define this positioning described and seen in the present specification and drawings, Applicant has amended claim1 to include this specific language of positioning and Applicant has further amended the specification to also reflect this descriptive language.

The insertion of this descriptive language by amendment is not considered to be new matter as it is merely common descriptive terminology of a surgeon or one familiar with anatomy which is used in everyday language to specifically describe the presentation of the volar side of the thumb.

Without using hindsight let us examine what the Varn and Chermak references fairly teach in combination to one of ordinary skill in the art. Without using hindsight it is submitted that the only thing that can be concluded in this combination is that one could add the rigid thumb support of Varn to the exerciser shown in Chermak. However, this suggested combination does not provide or even suggest the present invention as claimed, and in fact, provides something very different and unusable. The thumb support in Varn's structure holds the thumb in a completely improper and unusable position for presenting and exposing the volar side of the thumb for surgery. In fact it does the exact opposite and closes the thumb over the palm in a totally unusable and incorrect anatomic position which is completely wrong for appropriate access, and in fact, the thumb is held in such a position to hide or cover the volar side of the thumb.

In addition, the suggested combination is further configured whereby the wrist is held in a dropped position instead of in a required position whereby the wrist is held as taught by the present invention in a position of volar flexion. Also, the thumb is not held in a position of abduction up and out of the plane of the palm. To the contrary, the thumb is held in and over the plane of the palm which covers or hides the volar side of the thumb where surgery is to be conducted.

In order to correctly position the volar side of the thumb so it is suitably exposed and presented for surgery, it can be seen that the hand support of the present invention is so arranged and dimensioned whereby two things occur. First, the hand is firmly secured to the hand plate in a position of volar flexion of the wrist, and secondly, the thumb is firmly secured to the holder in a position of abduction up and out of the plane of the palm whereby this combination properly presents the volar side of the thumb for surgery.

With regard to claim 2, neither one of the references nor their combination teach in combination an obtuse upward angle for the hand support plate which is approximately  $135^\circ$  an obtuse upward and forward angles for the thumb support plate which are each approximately  $120^\circ$ . Both of the devices shown show that the wrist drops and it is not held at approximately  $135^\circ$ . Only the fingers are raised. In addition, Varn shows an upward angle for the thumb from the palm which is not an obtuse angle of approximately  $120^\circ$  and he therefore covers or hides the volar portion of the thumb. Therefore, the combination in these references not only do not show any one of these approximate angles, but in addition, does not even suggest the combination of angles such as required in claim 2 in order to properly present the volar side of the thumb for surgery. Also, Varn

folds the fingers slightly toward the palm which further covers or hides the volar portion of the thumb.

It is admitted that with regard to claims 3, 4 and 5 that the subject matter thereof per se is not new. However, when essentially combined with the allowable and novel invention of claim 1, it is respectfully submitted that the combination must be considered also to be novel and nonobvious.

For the foregoing reasons it is believed that this application is now in condition for allowance and favorable reconsideration with notice of allowance is requested.

Respectfully submitted,

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